



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

June 14, 2017

TO: Representative Michael Schraa
Room 107 West, State Capitol

FROM: Chris Carmichael, Fiscal Analyst

SUBJECT: 2017 Assembly Bill 94: Recommendations for Revocation

At your request, this memorandum summarizes the provisions of 2017 Assembly Bill 94, as well as Corrections' fiscal estimate related to the legislation. The proposed legislation would require the Department of Corrections to recommend revocation of an offender's community supervision if the person is charged with a crime.

Current Law

Under current law, if the Department of Corrections alleges any condition or rule of community supervision has been violated by an offender, Corrections may take physical custody of the person for the investigation of the alleged violation. Correction may initiate a revocation proceeding before the Division of Hearings and Appeals (DHA) under the Department of Administration. The hearing examiner will enter an order revoking or not revoking the offender's community supervision.

Being charged with a new offense is considered a violation of community supervision. Depending on the severity of the new offense, offenders charged with a new crime are typically held in custody for serious offenses, while less serious offenses may result in release pending trial. Under either circumstance, if the offender is convicted of the new offense, the individual may be reincarcerated. Regarding the violation of the original community supervision, Corrections may implement a variety of graduated sanctions, ranging from increased reporting, testing and treatment requirements up to revocation. As part of the graduated sanctions, statutes allow Corrections to place a person in a detention facility for up to 90 days.

If an offender's community supervision is revoked, that individual is returned to prison for a time period specified by the reviewing authority (DHA or Corrections). The length of time the offender may serve is the total length of the original sentence, less the amount of previous incarceration. In other words, all community time served may be lost and the revoked offender may be held up to the maximum length of the original sentence.

2017 Assembly Bill 94

Under 2017 AB 94, Corrections would be required to recommend revoking a person's community supervision if the person is charged with a crime (a misdemeanor or a felony) while on community supervision. Provisions of the bill would apply to all persons on community supervision whether subsequently convicted of the newly charged crime or not. The provisions would first apply to charges that are filed on the effective date of the bill.

Department of Corrections' Fiscal Estimate

The Department identified 9,416 cases that Corrections recommended for revocation in calendar year 2016, with approximately 92% of those cases approved for revocation by the DHA. Based on fiscal year 2016 data from the courts, Corrections identified 5,570 offenders who were charged with a new crime and remained on community supervision without revocation. As such, it is possible that there would be an additional 5,570 cases each year the Department would be required to recommend revocation to the DHA. As a result of the increased number of revocations, Corrections estimates that its prison population would grow at an annual increase of 4,586. This is the effect of having more offenders in prison for a longer period of time. Under the Department's fiscal estimate, the combined impact of this growth would result in costs of \$1.2 million annually for DHA revocation hearings and \$149.1 million annually for increased prison costs. The Department assumes that construction of two additional prisons would be necessary.

In reviewing the legislation and Corrections' fiscal estimate, a few issues may be considered:

- It is unknown if such an increase in the number of hearings before the DHA would be manageable under DHA's current staffing levels.
- While the Department assumed that the DHA would approve the revocation of approximately 52% of the cases, DHA currently approves 92% of cases recommended by the Department. As a result, the number of offenders returning to prison for revocations could be higher than assumed.
- The Department's estimate assumes that revoked offenders will serve an average of an additional 19 months in prison. To the extent that actual periods of reincarceration vary from this assumption, costs could differ from the estimate.
- Related to institutional cost increases, the Department applied the average annual prison cost of approximately \$32,300 annually. However, this figure is calculated based on Corrections' facility operational costs, then dividing those costs by the average daily population. Generally in budgeting for fluctuating populations, funding of \$32,300 per inmate (or its approximation) is not appropriated. Rather, correctional costs related to contract beds, correctional officer overtime, and/or prison inmate variable costs (e.g. food, health, supplies) would be more immediately affected. Those additional costs as result of the proposed legislation are not known.

I hope this information is of assistance.

CC/sas